
**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.4941 of 2014 (O&M)
Date of decision:October 04, 2018

ITC Limited

...Petitioner

Versus

State of Haryana and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. R.S.Cheema, Senior Advocate, with
Mr. L.K.Bhushan, Ms. Raashi Beri,
Mr. Arshdeep S. Cheema and Mr. Raghav Talwar, Advocates,
for the petitioner.

Mr. Saurabh Mohunta, DAG, Haryana.

Rakesh Kumar Jain, J.

The prayer made in this petition is for quashing the notice dated 23.10.2013 issued by respondent no.2 to the petitioner for allegedly impleading him in the adjudication proceedings initiated under Section 68 of the Food Safety and Standards Act, 2006 (hereinafter referred to as the "Act").

In brief, on 29.01.2013, at about 2.30 pm, the Food Safety Officer, Rohtak, inspected the premises of a retailer Amit Rewri and collected samples of iodized salt (Aashirvaad). The samples were sent to the Food Analyst who, in his report dated 14.02.2013, observed that black colour foreign matter in appreciable quantity has been found and held that the sample is not as per the standard laid down for edible common salt under Regulation 2.9.30 of the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 (hereinafter referred to as the "Regulations"). Thereafter, the Designated Officer, Rohtak, having the jurisdiction of the area,

authorized the Food Safety Officer under Rule 3.1(2) of the Food Safety and Standard Rules, 2011 (hereinafter referred to as the “Rules”) to file an application for adjudication of the offence under the Act. On 02.09.2013, the Adjudicating Officer, Food Safety & Standards Act, Rohtak, issued notice to the retailer Amit Rewri to appear and join the adjudication proceedings and a similar notice was issued to the manufacturer (petitioner herein) on 23.10.2013. The said notice dated 23.10.2013 is under challenge at the instance of the petitioner who has been summoned to join the adjudication proceedings initiated in terms of Section 68 of the Act.

After notice, respondents no.2 to 4 have filed their reply and alleged that the retailer Amit Rewri had produced the bill regarding purchase of iodized salt (Aashirvaad) from the petitioner and on the basis of said documentary evidence, the Adjudicating Officer has summoned the petitioner while exercising his powers under Section 68 of the Act. It is further averred that the State Government has now established two Food Safety Appellate Tribunals vide notification No.S.O.65/C.A.34/2006/S.70/2013 dated 26.07.2013 at Ambala and Gurugram to hear appeals from the decision of Adjudicating Officer(s) under Section 68 of the Act. The said notification reads as under:-

“HARYANA GOVERNMENT

HEALTH DEPARTMENT

Notification

The 26th July, 2013

No.S.O.65/C.A.34/2006/S.70/2013.-- In exercise of the powers conferred by sub-section (1) of section 70 of the Food Safety and Standards Act, 2006 (Central Act 34 of 2006), the Governor of Haryana hereby establishes two Food Safety Appellate Tribunals each at Ambala and Gurgaon to hear appeals from the decisions of

Adjudicating Officer under Section 68 of the said Act.

Further, in exercise of the powers conferred by sub-section (3) of the said section, the Governor of Haryana hereby appoints District and Sessions Judge, Ambala for revenue districts of Ambala, Panchkula, Yamuna Nagar, Kurukshetra, Kaithal, Karnal, Panipat, Jind, Hisar, Fatehabad and Sirsa and District and Sessions Judge, Gurgaon for the revenue districts of Gurgaon, Rewari, Mahendergarh, Mewat, Faridabad, Palwal, Sonapat, Rohtak, Bhiwani and Jhajjar to be the Presiding Officers of the said Tribunals.

NAVRAJ SANDHU
Principal Secretary to Government Haryana,
Health Department”

The respondents have, thus, averred that the petitioner has the remedy of appeal against the impugned notice/order by which the petitioner has been asked to join the proceedings in terms of Section 68 of the Act.

Learned counsel for the petitioner has submitted that the issues involved in the present case are as to whether the Adjudicating Officer has the power and jurisdiction to initiate proceedings under the Act *suo-moto* or can summon an additional accused without the process having been initiated by the Designated Officer and as to whether the Designated Officer alone has the jurisdiction to launch or sanction adjudication proceedings involving contravention of provisions of the Act, Rules and Regulations punishable with fine only and in this regard, the jurisdiction of this Court has rightly been invoked by the petitioner.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is substance in the argument of the counsel for the respondents in regard to the availability of remedy of appeal before the Food Safety Appellate Tribunal. There is no dispute that the notice/order has been issued by the respondents under Section

68 of the Act while summoning the petitioner as an accused and also there is no dispute that by way of notification dated 26.07.2013, the Government of Haryana has established two Food Safety Appellate Tribunals each at Ambala and Gurugram and the District and Sessions Judge has been appointed as the Presiding Officer of the said Tribunals.

In such circumstances, all the issues, raised by the petitioner in this petition, including the issue of jurisdiction of the Adjudicating Officer to summon the petitioner can be very well canvassed before the Food Safety Appellate Tribunal. Therefore, I am of the considered opinion that this petition, invoking extraordinary jurisdiction of this Court, is not maintainable in the presence of a statutory remedy of appeal before the Food Safety Appellate Tribunal headed by the serving District and Sessions Judge.

Consequently, the present writ petition is hereby dismissed being not maintainable. However, liberty is granted to the petitioner to file the appeal before the Food Safety Appellate Tribunal, if so advised, and in case such appeal is filed by the petitioner within a period of one month from the date of receipt of certified copy of this order, the Food Safety Appellate Tribunal shall entertain the said appeal *de hors* the issue of limitation, allow the petitioner to raise all the pleas before it which have been incorporated in the present writ petition, including the plea of jurisdiction of the Adjudicating Officer etc. and decide all the issues on merits as early as possible.

October 04, 2018
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned : Yes/No
Whether reportable : Yes/No